

my



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,662	10/18/2001	Kevin L. Hunter	60143-300603	2430
21912	7590	10/19/2005	EXAMINER	
VAN PELT, YI & JAMES LLP 10050 N. FOOTHILL BLVD #200 CUPERTINO, CA 95014			VO, CLIFF N	
			ART UNIT	PAPER NUMBER

2676

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/045,662

Applicant(s)

HUNTER, KEVIN L.

Examiner

CLIFF N. VO

Art Unit

2676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 39-45 and 53-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 41 is/are allowed.
- 6) ☒ Claim(s) 39-40, 42-45 and 53-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office action is in response to the Amendment filed April 11, 2005 which has been entered into the record of file.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 44-45 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Goldstein (U.S. Patent No. 5,991,057).

As per claims 44-45, Goldstein teaches an image transformation of a picture by using superimposing method comprising a step of constructing a skeleton of a determined object (Fig.1B), a step of superimposing the skeleton with a digital image wherein the digital image includes the predetermined object (Figs.1A-1D) and a step of

Art Unit: 2676

preparing the digital image and determining where a motion will occur and/or the character can be animated (col.2, lines 3-6 and 9-29).

4. Claims 53-58 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Covell et al (U.S. Patent No. 6,141,463).

As per claim 53, Covell et al teach a method and system for estimating jointed figure configurations for use in the computer animated system comprising a step of developing an initial presentation from an initial image of a known object (col.3, lines 59-60), a step of comparing a current image of the known object with the initial representation (col.6, lines 15-28), a step of developing a description of a position change of the know object between the current image and the initial representation and transmitting data associated with the position change to animate the known object (col.10, line 63 through col.11, line 10).

As per claims 54-58, Covell et al further clearly anticipates the claimed features at col.3, lines 16-58.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 39-40 and 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oe (U.S. Patent No. 5,031,620).

As per independent claim 39, Oe teaches an image processing system comprising a step of constructing a skeleton of a predetermined object (col.1, line 65 through col.2, line 12), a step of superimposing the skeleton with a digital image (col.4, lines 5-12), and a step of preparing the digital image, wherein the digital image includes background subtraction (Fig.2, 21; col.4, lines 5-12). It should be noticed that Oe fails to teach a wherein the digital image includes the predetermined object. However, Oe further teaches wherein two different data obtained from a specific region, i.e., "predetermined object", can be recognized by superimposing two or more images relatively to each other at col.4, lines 26-33. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to recognize that if Oe teach more kinds of image can be superimposed from a specific region of interest, then any X-Ray object and its corresponding skeleton can be superimposed together as now claimed.

Claim 40 is similar to claim 39, Oe further teaches wherein preparing the digital image includes background subtraction by manually extracting the predetermined object at col.3, 33-39.

Claim 42 is similar to claim 39, Oe further teaches wherein preparing the digital image includes capturing a real time image of the predetermined object (col.1, lines 65-68).

Claim 43 is similar to claim 39, Oe further teaches determining a topology of the skeleton, i.e., mask image (col.3, lines 8-16).

***Allowable Subject Matter***

7. Claim 41 is allowed.

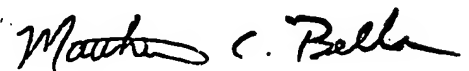
**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLIFF N. VO whose telephone number is 571-272-7651. The examiner can normally be reached on 2nd Monday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MATTHEW BELLA can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CLIFF N VO  
Examiner  
Art Unit 2676



MATTHEW C. BELLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600